

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JOSHUA J. DUFFEY,

Plaintiff,

V.

JUDGE BRIAN J. AMERO, *et al.*,

Defendants.

NO. 5:20-cv-00292-MTT-CHW

ORDER

Plaintiff Joshua J. Duffey, a prisoner in the Henry County Detention Center in McDonough, Georgia, filed a handwritten document, which was docketed as complaint under 42 U.S.C. § 1983. Compl., ECF No. 1. He did not either pay the Court's filing fee or move for leave to proceed in this action *in forma pauperis*. Thus, Plaintiff was ordered to either pay the filing fee or move to proceed *in forma pauperis*. Order, ECF No. 4. Additionally, Plaintiff was ordered to recast his complaint on the 42 U.S.C. § 1983 form designed for use by prisoner litigants. *Id.* Plaintiff was given twenty-one days to comply with the order and was cautioned that his failure to fully and timely comply could result in the dismissal of his complaint. *Id.*

More than twenty-one days passed following the entry of that order, and Plaintiff did not pay the filing fee, move for leave to proceed *in forma pauperis*, file a recast complaint, or otherwise respond to the order. Accordingly, Plaintiff was ordered to show cause to the Court why this case should not be dismissed for failure to comply with the previous order. Order to Show Cause, ECF No. 5. Plaintiff was given twenty-one days

to respond and was cautioned that his failure to do so would result in the dismissal of this case.

More than twenty-one days have passed since the order to show cause was entered, and Plaintiff has not responded to that order. Thus, because Plaintiff has failed to respond to the Court's orders and has otherwise failed to prosecute this case, it is hereby **ORDERED** that Plaintiff's complaint be **DISMISSED WITHOUT PREJUDICE**. *See* Fed. R. Civ. P. 41(b); *Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing Fed. R. Civ. P. 41(b) and *Lopez v. Aransas Cty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)).

SO ORDERED, this 22nd day of August, 2021.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT